

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

BIG LOTS, INC., *et al.*,

Debtors

Chapter 11

Case No. 24-11967 (JKS)

(Jointly Administered)

Re: D.I. 229

**RESERVATION OF RIGHTS AND LIMITED OBJECTION OF RIVER SOUTH  
COMMONS, LLC IN RESPONSE TO DEBTORS' NOTICE OF SUCCESSFUL AND  
BACKUP BIDDER WITH RESPECT TO THE AUCTION OF CERTAIN OF THE  
DEBTORS' LEASE ASSETS AND ASSUMPTION AND ASSIGNMENT OF CERTAIN  
UNEXPIRED LEASES**

NOW INTO COURT, through undersigned counsel, comes River South Commons, LLC (“River South”), a Louisiana limited liability company which files this Reservation of Rights and Limited Objection (the “Objection”) in response to the Debtors’ *Notice of Successful and Backup Bidder With Respect to the Auction of Certain of the Debtors’ Lease Assets and Assumption and Assignment of Certain Unexpired Leases* [D.I. 229]. In support of this Objection, River South respectfully states:

1. Effective February 25, 2022, Big Lots Stores, LLC, and River South entered into a Lease Agreement (“Lease”), with River South as landlord (“River South” or “Landlord” or “Lessor”), and Big Lots Stores, LLC, as tenant (“Big Lots Stores” or “Tenant” or “Lessee”), to lease certain space in “Landlord’s ‘Shopping Center’” as further described therein, titled “River South Commons Shopping Center,” with an address of 339 South Drive, Natchitoches, LA 71457 (the “Shopping Center”). See Lease at 5, ¶ 1.E.

2. A true and correct copy of the Lease is attached to the Declaration of Jeffrey H. Thomas, which is attached hereto as Exhibit “A”.<sup>1</sup>

3. Pursuant to the Lease, the term of the Lease is for seven (7) full years following certain triggering events described in the Lease. See Lease at pgs. 3-6. The Lease also contains options to extend the term. See *id.*

4. As shown (by site map and photos) and described in the Lease itself, including its attachments, the Shopping Center, in its entirety, is leased by River South, and consists of several joined, contiguous leased spaces, with tenants sharing access and use of, among other things, a single parking lot, large signage on the road nearby, and certain “common areas” described therein. As described in greater detail in the Lease, permitted uses of the leased premises focus on “retail sale.” See Lease at pg. 6, ¶ 4.A.

5. Big Lots, Inc. filed a voluntary petition in this Court for relief under Title 11 of Chapter 11 of the United States Code (the “Bankruptcy Code”) on September 9, 2024. D.I. 1.

6. On September 19, 2024, the Notice was filed, indicating that pursuant to a certain Lease Sale Procedures Order, and a subsequent Lease Auction/Lease Sale, the Debtors were proposing Court approval of sales, assumptions and assignments of certain lease assets of the Debtors, as described in the attachment thereto. See D.I. 229. The attachment to the Notice listed the Lease as one of the subject leases, stating the same was the proposed subject of an “Assignment Agreement,” with assignee Ollie’s Bargain Outlet, Inc., with proposed cure costs of \$40,920.00 (“The Proposed Lease Assignment”). See D.I. 229-1 at pg. 2, last line of chart.

7. According to the Notice, River South has the right to file an objection by today to the proposed transaction described in the Notice involving the Lease of the Shopping Center,

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<sup>1</sup> The Declaration of Jeffrey H. Thomas is filed herewith in support of this Objection, and is incorporated hereto.

including an objection based on a lack of adequate assurance under 11 U.S.C. § 365. See D.I. 229 at p. 2, ¶ 4.

8. In order to evaluate adequate assurance, and conduct due diligence, River South contacted the Debtors' counsel on September 25, 2024, for copies of any and all final documentation proposed to document the transaction involving the Lease as described in the Notice, with particular interest in examining any and all provisions therein regarding compliance with existing lease terms or any exceptions thereto.

9. Debtors' counsel reported as of today that such documentation, including the final "Assignment Agreement" referenced in the chart attached to the Notice, had not been finalized and was not available for review at this time.

10. Accordingly, River South files this protective, limited objection, reserving all rights to object to the proposed sale, assumption and assignment of the Lease of the Shopping Center at any hearing scheduled to approve it, pending review of any and all final documentation related to the proposed transaction between Debtors and the purported assignee Ollies' Bargain Outlet, Inc. This includes, but is not limited to, a reservation of rights to assert the adequate assurance required for such a transaction under inter alia 11 U.S.C. § 365 has not been satisfied.

**Conclusion**

11. For the non-exclusive reasons set forth above, River South reserves and preserves all of its rights to object to the proposed sale, assumption and assignment of the Lease at any hearing scheduled to approve the same, pending review of any and all final documentation related to said transaction between Debtors and the proposed assignee Ollies' Bargain Outlet, Inc., including but not limited to any final proposed order approving this transaction, and all evidence of the proposed assignee's ability to perform under the Lease, including without limitation as required by section 365(b)(3) of the Bankruptcy Code.

Respectfully submitted,

**COZEN O'CONNOR**

Dated: September 26, 2024

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